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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/674,706	11/06/2000	Robert J Briscoe	36-1384	3584

7590 05/07/2003

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EXAMINER

AKERS, GEOFFREY R

ART UNIT

PAPER NUMBER

3624

DATE MAILED: 05/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application

09/674 706

Applicant(s)

Briscoe

Examiner

Allen, J

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Confirmation No.

1

- The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address -

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on 2/24/03
- ☒ This action is **FINAL**. ☐ This action is non-final.
- ☐ Since this application is in condition for allowance except for the formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1, 4-33, 37, 39 is/are pending in this application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1, 4-33, 37, 39 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved or ☐ disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are ☐ accepted or ☐ objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d) or (f).

☐ All ☐ Some\* ☐ None of the:

- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received:

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- ☐ The translation of the foreign language provisional application has been received.
- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) \_\_\_\_\_
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

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## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is issued in response to applicant's Amendment A(Paper #10) filed 2/24/03.
2. Claims 2-3 and 34-36 were cancelled. Claims 1,4,10-11,14,27 were amended. No new claims were added.
3. Claims 1,4-33,37,39 are pending.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1,4-33,37,39 are rejected under 35 USC 103(a) as unpatentable over Takeuchi(US Pat. No: 5,978,456) in view of Dent(US Pat. No: 6,098,878).
6. As per claims 1,4-33,37,39 Takeuchi teaches a method of operating a communications network comprising measuring at each of a plurality of customer terminals usage by thre respective terminal of network resources(Abstract)(Fig 1)(Fig 2) and subsequently calculating a network usage charge from the measurment data(Fig 3)(Fig 4).Takeuchi further teaches aggregating and storing measurment data(Fig 13)(Fig 14)(Fig 15)(Fig 16)(col 4 line 57-col 5 line 8) as well as communicating measurement data to a system remote from the customer

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terminal(col 5 lines 14-33) as well as routing data and communication through multiple network domains(col 7 line 60-col 8 line 23) as well as passing data packets through routers(Fig 5)(Fig 10)(Fig 11). Dent also teaches operating a federated data communications network characterized by measuring at each of a plurality of customer terminals connected to the said network usage and calculating a service charge from measurement data(Abstract)(Fig 1)(Fig 2)(Fig 3)(Fig 4).Dent teaches communicating a tariff to each of the customer terminals(Fig 8/805)(Fig 9/905) as well as packet data and frame relay systems for different classes of service(col 4 lines 9-21)(col 6 lines 4-7) as well as clearing through a third party smart card(col 6 lines 38-53)(Fig 8).Dent further teaches sampling the usage of network resources by a terminal and comparing a measure of this sampled usage with measurements made by a terminal(Abstract)(Fig 7/710/720/730)( Fig 8)(Fig 9)(col 1 line 64-col 3 line 45). It would have been obvious to one skilled in the art at the time of the invention to combine Takeuchi in view of Dent to teach the above. The motivation to combine is to teach a system and method for controlling expenses incurred by communications terminals as enunciated by Dent(col 1 lines 64-67).

#### ***Response to Arguments***

7. Applicant's arguments filed 2/24/03 have been fully considered but they are not persuasive. Dent teaches sampling the usage of network resources by a terminal and comparing a measure of this sampled usage with measurements made by a terminal(Abstract)(Fig 7/710/720/730)( Fig 8)(Fig 9)(col 1 line 64-col 3 line 45). Dent teaches plotting the actual units used and the corresponding charges(Fig 1)(Fig 2) in the tariff management process as well as

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determining the efficiency based on communications units as measured(Fig 7). Further,applicant merely argues for sampling of data in the usage pattern for verification.Comparison methods taught by Dent against known critical values provide a means of verification monitoring (col 2 line 44-col 3 line 15).Takeuchi discloses relays(routers) according to instructions from calling terminals(Fig 2/7) and data transmission through pluralities of networks which involve routing(Fig 3) and edge price determination(Fig 7)(Fig 11-16)(Fig 8) as well as cost apportionment parameters based on networks used(Fig 17)(col 1 line 51-col 9 line 5).

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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9. Any questions concerning this communication should be addressed to the primary examiner of record, Dr. Geoffrey Akers, P.E., who can be reached between 6:30 AM and 5:00 PM Monday through Friday at 703-306-5844. If attempts to contact the primary examiner are unsuccessful, the primary examiner's superior, Mr. Vincent Millin, SPE, may be telephoned at (703)-308-1065.

The fax number for Formal or Official faxes and Draft or Informal faxes to Technology Center 3600 or this Art Unit is (703)-308-3687. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)-308-1113.

GRA

May 5, 2004

DR. GEOFFREY R. AKERS, P.E.  
PRIMARY EXAMINER